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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,913	08/24/2001	Gunter Knepe	HM-244DIV	3771
7590 05/27/2004			EXAMINER	
Friedrich Kueffner 317 Madison Avenue Suite 910 New York, NY 10017			TRINH, MINH N	
			ART UNIT	PAPER NUMBER
			3729	

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,913

Applicant(s)

KNEPPE ET AL.

Examiner

Minh Trinh

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/177,300.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed in 02/09/04 has been fully considered and made of record.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 35-36 are under 35 U.S.C. 103(a) as obvious over A.W. Metzner et al (US 1,466,001) in view of Rewitzer (5,398,575).

Metzner et al disclose a cutting apparatus comprising a knife drum 19 and a counter-drum 18 located opposite the knife drum, at least one knife having a knife cutting edge 26 (see Fig. 6) mounted on the knife drum 19, the counter-drum 18 having a surface portion acting as an anvil 21 and interacting with the knife, at least one drive unit 9 for accelerating the drums to a speed corresponding to a feeding speed of a rolled strip 11 to be cut, and at least one of the drums having a separate adjusting device for adjusting the drums relative to each other for carrying out a cut (see Figs 1, 5 and 6, i.e., Fig. 5 that depicts a dual drums 18 and 19), the knife drum 19 having a cutting circle (=circumference of roll 19), wherein the knife is mounted so as to protrude beyond the cutting circle towards the anvil of the counter-drum 18 (see Fig. 6), and wherein the knife drum with the unyieldingly supported knife is mounted on a link 5, the knife drum with the yieldingly held link 5, which cooperates with the adjusting device 4b or 4a). Metzner et al however is silent about the adjusting device being supported against a spring element with a predetermine restoring force. Rewitzer teaches the

feature as discussed above (see Fig. 1-2 of Rewitzer, depicts the adjusting device that support against a spring element with a predetermine restoring force). Therefore, It would have been obvious to one ordinary skill in the art, at the time of the invention was made to employ the Rewitzer's teaching as described above onto the structure invention of Metzner et al in order to form a desired cutting structure, the motivation for this combination is disclosed by Rewitzer (see the discussion at col. 4, lines 10-24).

Regarding claim 36, Noting Figs. 5-6 of Metzner et al shows a dual drums cutting apparatus and it appears that the drums 18 and 19 being substantially same size and shape therefore it is capable for interchangeable or "exchangeable for one another " as broadly claimed by the instant application. Furthermore, regarding the knife drum and the anvil drum are exchangeable for one another. It would have been an obvious matter of design choice to have the knife drum and the anvil drum being exchangeable for one another since applicant has not disclosed that these features is critical, patentably distinguishing features and it appears that the invention would perform equally well with the configurations as shown in the prior art reference (see Metzner's Figs. 5 and 6).

Response to Arguments

4. Applicant's arguments, see "Remarks", filed 2/9/04, with respect to the rejection(s) of claim(s) 24-34 have been fully considered and are persuasive. Therefore, the rejection set forth in prior Office Action has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made (see paragraph 3).

Interviews After Final

5. Applicant notes that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing). Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations, which would require more than nominal reconsideration or new search, will be denied. See MPEP 714.13 and 713.09.

Prior Art References

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art references are cited for their teaching of drum cutting devices.

Conclusion

7. Please provide numeral references to the claimed limitations as well as support in the disclosure (i.e., page and line numbers and reference number associated with from the drawings) for better clarity. Applicant requires pointing out the support for any amendment made to the disclosure and the claims. See 37CFR 1.111 and section 2163.06 of the MPEP.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (703) 305-2887. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Minh Trinh
Patent Examiner Group 3729

mt
May 24, 2004